



Senate

General Assembly

File No. 566

January Session, 2013

Substitute Senate Bill No. 1111

Senate, April 18, 2013

The Committee on Planning and Development reported through SEN. CASSANO, S. of the 4th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

***AN ACT REQUIRING CERTAIN WATER POLLUTION CONTROL
AUTHORITIES TO OPERATE PURSUANT TO AN INTERLOCAL
AGREEMENT AND CONCERNING THE LIABILITY OF WATER
COMPANIES FOR DAMAGES CAUSED BY A LEAK OR BREAK IN A
WATER MAIN.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2013*) Any water pollution
2 control authority located in a municipality with a population of less
3 than fifty thousand that, through the municipality, receives a grant
4 pursuant to section 22a-478 of the general statutes for a water pollution
5 control project involving a sewerage system, as defined in section 7-
6 245 of the general statutes, that serves customers in more than one
7 municipality shall operate pursuant to an interlocal agreement
8 negotiated in good faith. Each municipality served by such sewerage
9 system shall be a party to such agreement. Any such interlocal
10 agreement created after October 1, 2013, shall include the following
11 provisions: (1) Except as required by section 7-256 of the general

12 statutes, no charge for connection with or for the use of the sewerage
 13 system shall be increased without the prior preparation and review by
 14 the water pollution control authority of an independent cost of service
 15 study; (2) the water pollution control authority shall establish an
 16 advisory board that shall meet at least twice annually and shall consist
 17 of (A) one person who shall represent the chief elected officials of the
 18 municipalities served by the sewerage system, and (B) one person from
 19 each municipality served by the sewerage system who shall represent
 20 customers of such sewerage system; (3) the water pollution control
 21 authority shall consult with such advisory board prior to taking any
 22 action concerning a transfer of real property, a rate increase, except as
 23 required pursuant to section 7-256 of the general statutes, or a capital
 24 improvement project with an aggregate cost in excess of five million
 25 dollars; and (4) when surrounding municipalities contribute more than
 26 twenty per cent of the design capacity flows of the water pollution
 27 control authority's sewerage system, the parties to the interlocal
 28 agreement shall negotiate in good faith and make best efforts to form a
 29 regional water pollution control authority pursuant to section 22a-500
 30 of the general statutes.

31 Sec. 2. (NEW) (*Effective October 1, 2013*) Any water company shall be
 32 liable to a consumer for any uninsured damages proximately caused
 33 by a leak or break in a water main owned by the water company. For
 34 purposes of this section, "water company" and "consumer" have the
 35 same meanings as provided in section 25-32a of the general statutes.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2013</i>	New section
Sec. 2	<i>October 1, 2013</i>	New section

Statement of Legislative Commissioners:

In section 1, the second sentence was added for clarity.

PD *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact: None

Municipal Impact:

Municipalities	Effect	FY 14 \$	FY 15 \$
Various Municipalities	Cost	Potential	Potential

Explanation

The bill makes water companies liable for any uninsured damages to a consumer's property caused by a water main leak or break. This is anticipated to result in potential costs to municipalities.¹ The fiscal impact to certain municipalities would depend on the number of water main leaks or breaks and the value of the damaged property.

The bill also makes changes to certain water pollution control authorities that have no fiscal impact on the state or municipalities.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to the number of uninsured damages as a result of water main leaks or breaks.

¹ There are 25 municipal water companies in the state.

OLR Bill Analysis**sSB 1111*****AN ACT REQUIRING CERTAIN WATER POLLUTION CONTROL AUTHORITIES TO OPERATE PURSUANT TO AN INTERLOCAL AGREEMENT AND CONCERNING THE LIABILITY OF WATER COMPANIES FOR DAMAGES CAUSED BY A LEAK OR BREAK IN A WATER MAIN.*****SUMMARY:**

This bill makes water companies (including municipal water utilities as well as private companies, see BACKGROUND) liable for any uninsured damages to a consumer's property caused by a water main leak or break. The bill appears to impose strict liability on water companies for such damages (i.e., it appears to make the water company liable regardless of whether the company was negligent in, for example, installing and maintaining water mains).

The bill also requires certain water pollution control authorities (WPCA) that provide sewerage service to other towns to operate pursuant to an interlocal agreement negotiated in good faith. It also requires such WPCAs to consult with a representative advisory board before making major decisions. In certain circumstances, the bill requires a WPCA to consider converting to a statutory regional WPCA.

EFFECTIVE DATE: October 1, 2013

AUTHORITIES THAT SERVE OTHER TOWNS

The bill requires a WPCA that is located in a town with fewer than 50,000 people, serves at least one other town, and receives a grant from the Clean Water Fund for a sewerage system water pollution control project, to operate pursuant to an interlocal agreement negotiated in good faith. All towns served by such WPCA must be party to the agreement. The bill requires such agreements created after October 1,

2013 to include the following provisions:

1. connection and usage charges for the sewerage system must not be increased, unless necessary to meet bonding obligations, until the WPCA reviews a cost of service study prepared by an independent party;
2. the WPCA must establish an advisory board consisting of (a) one person representing served municipalities' chief elected officials and (b) for each municipality served, one representative of customers;
3. the advisory board must meet at least twice a year and must be consulted before a WPCA transfers any real property, increases rates (except to meet bonding requirements), or acts on a capital improvement project costing over \$5,000,000; and
4. the parties to the interlocal agreement must negotiate in good faith and make best efforts to form a regional WPCA if surrounding towns contribute flows that are over 20% of the system's design capacity.

By law, rates may be increased by a WPCA when necessary to meet payment obligations on bonds or notes (CGS § 7-256).

BACKGROUND

Definitions of "Water Company" and "Consumer"

For water supply purity and adequacy purposes, a "water company" is an individual, municipality, or other entity that owns, maintains, operates, manages, controls, or employs any pond, lake, reservoir, well, stream, or distribution plant or system that supplies water to two or more consumers, or at least 25 people, on a regular basis. "Consumer" is a private dwelling, hotel, motel, boardinghouse, apartment, store, office building, institution, mechanical or manufacturing establishment, or other place of business or industry to which water is supplied by a water company (CGS § 25-32a).

Regional Water Pollution Control Authorities

Regional WPCAs are created by concurrent ordinances of the participating towns. The towns must prepare and submit a preliminary plan of operation for the authority to the Energy and Environmental Protection commissioner and the State Treasurer for their review and approval (CGS § 22a-500 et seq.).

Clean Water Fund

The Clean Water Fund provides financial assistance to municipalities for planning, design, and construction of wastewater collection and treatment projects.

COMMITTEE ACTION

Planning and Development Committee

Joint Favorable Substitute

Yea 18 Nay 1 (04/01/2013)